

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Carl E. Whitacre,

Petitioner,

v.

Case No. 2:23-cv-3077

Judge James L. Graham

Magistrate Judge Peter B. Silvain, Jr.

Warden, Noble Correctional Institution,

Respondent.

Order

This matter is before the Court on the Magistrate Judge's Report and Recommendation, which recommended that plaintiff's habeas corpus petition brought under 28 U.S.C. § 2254 be dismissed for want of prosecution.

No objections to the Report and Recommendation have been filed. Upon review, the Court agrees with the Report and Recommendation (Doc. 9), which is hereby adopted. Plaintiff's petition is dismissed.

The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal of this order would not be taken in good faith for the reasons stated in the Report and Recommendation. Therefore, the Court declines to issue a certificate of appealability and denies plaintiff leave to proceed on appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: April 11, 2024